

All communications respecting this case should identify it by number and name of parties.



**U.S. DEPARTMENT OF COMMERCE
Patent and Trademark Office**

Address: BOX INTERFERENCE
Commissioner of Patents and Trademarks
Washington, D.C. 20231

Telephone: (703) 603-3300
Facsimile: (703) 603-3541

MAILED

AUG 19 1994

Patent and Trademark Office
BOARD OF PATENT APPEALS
AND INTERFERENCES

Applicant: Tucholski
Serial No.: 07/641,394
Filed: January 15, 1991
For: BATTERIES WITH TESTER
LABEL
Accorded Benefit of: None

Pursuant to 37 CFR 1.617(g) the Administrative Patent Judge finds, after a review of the evidence, including the additional evidence presented pursuant to 37 CFR 1.617(b), that applicant Wang et al. is prima facie entitled to judgment relative to Cataldi's April 4, 1990 filing date. Accordingly, it is ordered that the interference proceed in the normal manner.

The Interference No. 103,036 is hereby redeclared pursuant to 37 CFR 1.642 to add the party Burroughs et al. (07/963,915), the party Tucholski (07/641,394) and the Cataldi et al. Reissue application (07/942,973).

Burroughs et al and Tucholski are ordered to identify their lead attorneys within twenty days from the date of this order.

The time for filing preliminary statements and motions is set to close three months from the date of this order.

The cases involved in this interference are:

Junior Party

Applicants: Chih-Chung Wang, Terry C. Eisensmith, Charles E. Kiernan and Robert L. Milanese

Serial No. 641,394

-2-

Address: 9 Gould Road, Lexington, MA 02173
45 Hoadley Creek Circle, Guilford, CT 06437
17 Marine Avenue, Westport, CT 06880
2 Stonybrook Road, Brookfield, CT 06804

Serial No.: 07/730,712, filed 07/16/91

For: BATTERY WITH INTEGRAL CONDITION TESTER

Assignee: None

Attorneys of Record: Ronald S. Cornell and James B. McVeigh

Associate Attorney: Stephen D. Murphy

Accorded Benefit of: None

Address: Stephen D. Murphy
Scully, Scott, Murphy & Presser
400 Garden City Plaza
Garden City, NY 11530

Junior Party

Applicant: Gary R. Tucholski

Address: 23447 Emmons Road, Columbia Station, OH 44028

Serial No.: 07/641,394, filed 01/15/91

For: BATTERIES WITH TESTER LABEL

Assignee: Eveready Battery Co., Inc., St. Louis, MO 63164, A
Corporation of Delaware

Attorneys of Record: Robert W. Welsh, V.B. Hill and S.A. Fraser

Associate Attorney: Peter P. Price, Lloyd A. Heneveld, Richard C.
Cooper, William D. DeWitt, Randall G. Litton, James A.
Mitchell, Daniel Van Dyke, Harold W. Reick, Donald S.
Gardner, Robert J. Carrier, Thomas M. McKinley, Carl S.
Clark, Terence J. Linn, Frederick S. Burkhart, John A.
Gazewood, Kevin R. Peterson, James D. Darnley, Jr.,
James E. Bartek, Daniel L. Girdwood, Randall S. Vass,
Barry C. Kane and Mark E. Bandy

Accorded Benefit of: None

Address: Price, Heneveld, Cooper, DeWitt & Litton
695 Kenmoor, S.E.
P.O. Box 2567
Grand Rapids, MI 49501

Junior Party

Patentees: Richard T. Cataldi, Patrick D. Hein, Henry J. Heirigs
and John C. Leo

Address: Kodak Park Division, Rochester, NY 14650, respectively

Serial No.: 07/504,504, filed 04/04/90, now Patent No. 5,059,895,
issued 10/22/91

For: BATTERY VOLTMETER

Assignee: Eastman Kodak Co., Rochester, NY, A Corporation of
New Jersey

Attorneys of Record: John R. Everett and J. Jeffrey Hawley

Associate Attorneys: Charles L. Gholz

Accorded Benefit of: None

Address: J. Jeffrey Hawley
c/o Patent Department
Eastman Kodak Co.
343 State Street
Rochester, NY 14650-2201

Junior Party

Applicants: Richard T. Cataldi, Patrick D. Hein, Henry J. Beirigs
and John C. Leo

Address: Kodak Park Division, Rochester, NY 14650, respective

RE Serial No.: 07/942,973, filed 09/10/92

For: BATTERY-MOUNTED VOLTMETER HAVING THERMAL INSULATING MEANS
FOR PREVENTING HEAT-SINKING TO THE BATTERY HOUSING

Assignee: None

Attorneys of Record: John R. Everett and J. Jeffrey Hawley

Associate Attorneys: Charles L. Gholz

Accorded Benefit of: U.S. Serial No. 07/504,504, filed 04/04/90,
now Patent No. 5,059,894, issued 10/22/91

Address: J. Jeffrey Hawley et al
c/o Patent Dept.
Eastman Kodak Co.
343 State Street
Rochester, NY 14650-2201

Senior Party

Applicants: James R. Burroughs and Alan N. O'Kain

Address: 4697 White Oak Avenue, Encino, CA 91316
718 Malabar Drive, Corona del Mar, CA 92625

RE Serial No.: 07/963,915, filed 10/20/92

For: BATTERY WITH STRENGTH INDICATOR

Assignee: Strategic Energy Ltd., A CA. Limited Partnership

Attorneys of Record: Anthony P. DeLio, Peter W. Peterson and John
H. Mion

Associate Attorneys: None

Accorded Benefit of: U.S. Serial No. 07/308,210, filed 02/08/89,
now Patent No. 5,015,544, issued 05/14/91

Address: Peter W. Peterson
Delio & Associates
121 Whitney Avenue
New Haven, CT 06510

Count 1

A battery having a label with an integral voltmeter; wherein the voltmeter comprises:

- A) a dielectric layer;
- B) a conductive layer above or below the dielectric layer; and
- C) a temperature sensitive color indicator layer in thermal contact with the conductive layer, characterized in that 1) the conductive layer has i) sufficient heat generating capacity to affect a change in the temperature sensitive color indicator layer and ii) sufficient thermal insulating means under one of its surfaces to overcome heat sinking when the voltmeter is in contact with a battery having an electrically conducting housing and 2) the voltmeter includes means for forming an electrical switch with the electrically conductive battery housing.

The claims of the parties which correspond to this count are:

Wang et al: Claims 22-24 and 43-63.

Tucholski: Claims 1-35 and 46-70.

Cataldi et al: Claims 9-29.

Cataldi et al: (Reissue): Claims 9-25 and 28-40.

Burroughs et al: (Reissue): Claims 13-51.



Ronald H. Smith
Administrative Patent Judge
(703) 557-4077

RHS/raj